

Serial No. 10/726,963

PATENT

Remarks

In the Office Action of October 20, 2006 claims 1 - 16 are pending of which claims 15 and 16 were allowed and 1 - 14 were rejected.

In particular:

- Drawing objections are raised particularly against Figure 5.
- Claims 1-14 were rejected under 35 USC 102(b) as being anticipated by Palmaz et al (US Patent No 5571170).
- Claim 6 is rejected under 35 USC 103(a) as being unpatentable of Palmaz et al in view of Nobles et al (US 20020049453).
- Claims 7 and 11 are rejected under 35 USC 103(a) as being unpatentable over Palmaz et al in view of Lazarus (US Patent No 5662700).
- Claim 8 is rejected under 35 USC 103(a) as being unpatentable over Palmaz et al in view of Lau et al (US 6309412).
- Claim 14 is rejected under 35 USC 103(a) as being unpatentable of Palmaz et al in view of Evans et al (US Patent No 6508782).

The Examiner has indicated that claims 15 and 16 have allowable subject matter and we thank the Examiner for the indication of allowance, however, the applicant believes that claims 1 to 14 are also not anticipated and patentable over the references cited by the Examiner as explained below.

With respect to the drawing objection, we enclose a replacement sheet for the page of drawings including Figures 5, 6 and 7 with the stent item 35 indicated in red. We submit that in making this amendment, no new subject matter has been added. Support for the stents being item 35 can be found on page 9 middle paragraph in which it is stated that the three stents are under the biocompatible material 36 which is referenced in Figure 5.

Claim amendments are made to amend claim 1 to more positively recite features of that claim and to cancel claims 13 and 14. Amendments are made to claims 4, 5, 6, 7, 10 and 11 to clarify the wording and dependencies of those claims. No other claim amendments are made.

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Claim 1 of this present application as amended claims a prosthesis which is for treatment by intraluminal placement of aortic dissection caused by a rupture in the wall of an aorta of a patient. The prosthesis has a plurality of self expanding stents with at least one of the stents having a biocompatible graft material cover defining a covered stent portion and an uncovered stent portion. Support for the terms covered stent portion and uncovered stent portion can be found on page 10 lines 10 to 12 for instance. The covered stent portion is to close off the rupture in the wall of a lumen and the uncovered stent portion is to provide pressure on the wall of the lumen adjacent to an extending away from the rupture to deflate the false lumen caused by a aortic dissection. The Importance of the use of self expanding stents for the provision of this pressure to deflate the false lumen resulting from an aortic dissection is discussed on page 9 in the paragraph which discusses Figure 5.

We refer the examiner to the portion of page 9 which states:

" The stents provide gradual pressure on the wall of the lumen to close the false lumen and open up the true lumen."

It should be particularly noted by the Examiner that the claim defines self-expanding stents as these are elastic and will tend to provide continuous pressure against the wall of a lumen after deployment. The claim now also specifies that the self expanding stents are linked together by links. Support for this amendment can be found on page 9 lines 18 to 20.

Claim 10 is amended to specify in more detail the uncovered stent assembly portion of the prosthesis.

The specification Palmaz et al cited by the Examiner discloses a system which includes balloon expandable stents and not self-expanding stents. The Examiner has referred us to column 9 and we draw his attention particularly to lines 47 and 48 of column 9 in which the tubes are described as expandable and deformable tubular members. Expandable means that the stents are delivered mounted on a balloon such as illustrated in Figure 3 and can be expanded by the use of the balloon to a fixed size. The balloon is then removed and the stent stays

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at that size. An expandable stent of Palmaz does not expand by itself but is expanded by some outside agency. Further, an expandable stent of Palmaz is not resilient elastic. A self expanding stent expands by its own inherent resilience. A self expanding stent is delivered in a constrained state under a sheath and then released by retraction of the sheath such as is illustrated in Figure 3 of the present application. An expandable stent of Palmaz cannot provide continuous pressure over a time of days or weeks against the wall of a vessel to gradually expand the wall of a vessel out to its original size. If a balloon expandable stent was used with the present invention then there would be too much force too early on the wall of the vessel and serious damage or tearing of the vessel wall could occur.

We submit therefore that the reference Palmaz et al does not teach or suggest the use of self-expanding stents to be used in a device for the treatment of an aortic dissection and claim 1 is novel and inventive over this reference.

With reference to claims 2 to 9, we submit that these claims depend from claim 1 which is not anticipated by Palmaz and these claims too are not anticipated and are patentable over the reference Palmaz et al.

With reference to claim 10 being rejected under 35 USC 102(b) as being anticipated by Palmaz et al (US Patent No 5571170) we submit that as discussed above the reference Palmaz does not contemplate the use of self expanding stents and that claim 10 is not anticipated by Palmaz.

With reference to claims 11 and 12, we submit that these claims depend from claim 10 which is not anticipated by Palmaz and these claims too are not anticipated and are patentable over the reference Palmaz et al.

With respect to the objection against claim 6 based upon Palmaz in view of Nobles, we submit that as this claim depends from a patentable claim 1 that this claim 2 is also patentable over these references either taken singly or in combination.

With respect to claims 7 and 11 being rejected as unpatentable over Palmaz in view of Lazarus, we submit that as these claims depend from a patentable claim 1, that these claims too are novel and inventive over the cited references taken either singly or in combination.

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With respect to claim 8 being rejected as unpatentable over Palmaz in view of Lau, we submit that as this claim depends from a patentable claim 1, that this claim too is novel and inventive over the cited references taken either singly or in combination.

We submit the objections against claims 13 and 14 are rendered moot by the cancellation of these claims.

The re-examination and reconsideration of this application is respectfully requested and it is further requested that this application be passed to issue.

Although the foregoing discussion is believed to be dispositive of the issues in this case, applicants' attorney requests a telephone interview with the Examiner to further discuss any unresolved issues remaining after the Examiner's consideration of this amendment.

Respectfully submitted,

David Ernest Hartley et al

Date: Jan 22, 2007

By

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Enclosure:

Replacement Sheet of Drawing

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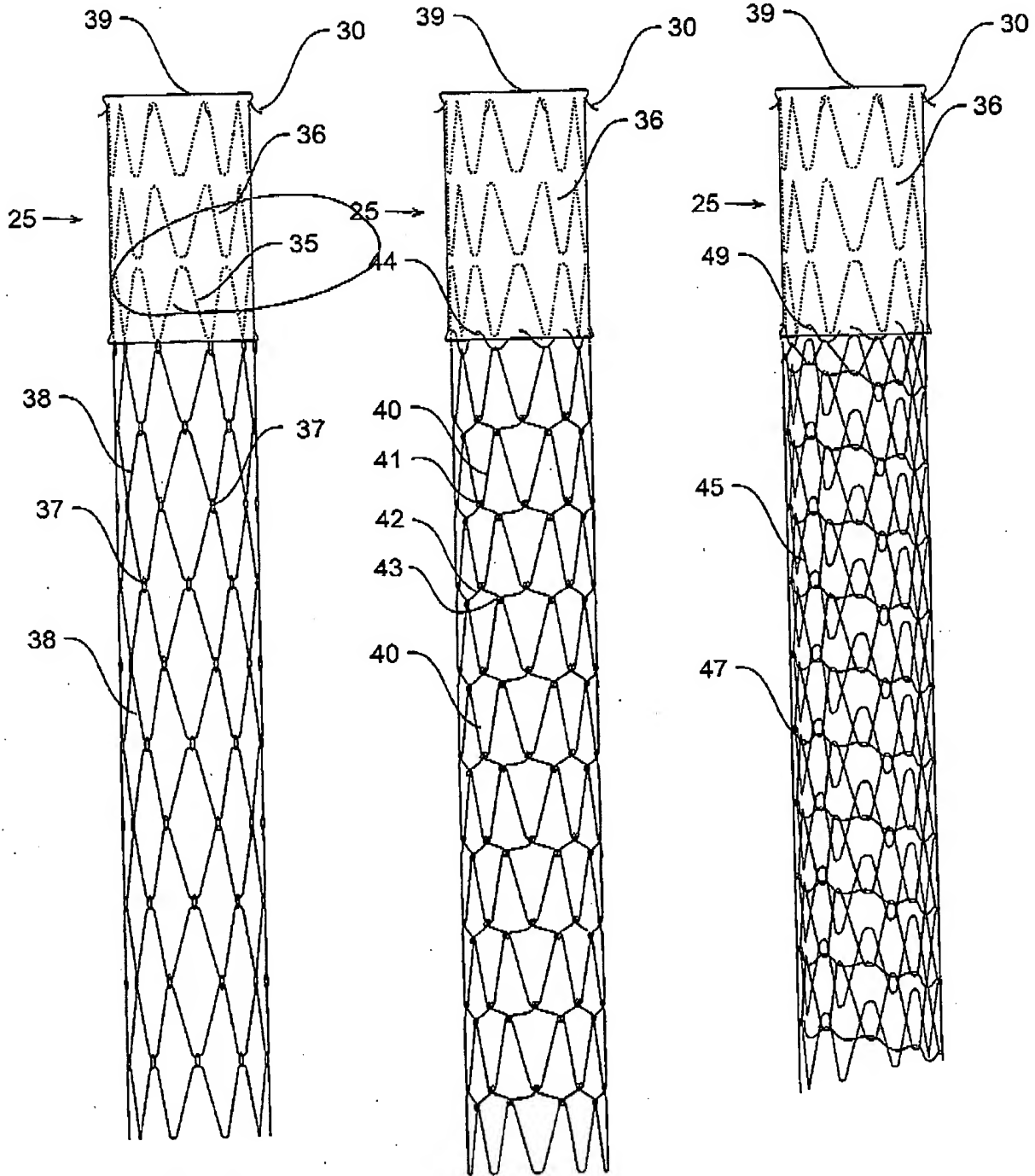


Fig 5

Fig 6

Fig 7